

BEFORE THE TENNESSEE STATE DEPARTMENT OF EDUCATION

IN THE MATTER OF:

G. R.

v.

NO. 99-49

MAURY COUNTY SCHOOL SYSTEM

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ORDER

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Marilyn L. Hudson  
Administrative Law Judge  
606 Main Avenue, Suite 202  
Knoxville, TN 37902  
(865) 525-4200

May 10, 2000

ORDER

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Case No. 99-49

This matter having come before the undersigned upon request of the parents of G.R. for a due process hearing, and the undersigned having considered the testimony of witnesses presented on behalf of the parents and the school, together with documentary evidence, the arguments of counsel and pleadings submitted; for the reasons set forth herein it is

ORDERED that for the time period from September 1, 1998, through December 1998, the school shall reimburse the parents their actual costs for providing occupational therapy services by Agaath Van Dorp at High Hopes and for the cost of transportation for said services from the parents' residence to High Hopes in Nashville computed at \$.28 per mile; and it is

FURTHER ORDERED, that, for the entire school year of 1998-1999, the school shall reimburse the parents their actual costs for providing speech therapy services by Irene Bible at High Hopes and for the cost of transportation from the parents' residence to High Hopes in Nashville, computed at \$.28 per mile; and it is

FURTHER ORDERED that all other of the parents' requests for relief be and hereby are denied.

It is undisputed between the parties that G.R. should receive occupational therapy as a part of his free appropriate public

education (FAPE) for the 1998-1999 and 1999-2000 school years and that the school did not have available for G.R. any certified occupational therapist from the beginning of the 1998 school year until January 1999, when Debra E. Williams, a certified occupational therapist, was hired. During the 1998 school year, until Ms. Williams was hired, there was no plan in place for occupational therapy for G.R. and the limited therapy he received from the school was administered solely by a certified occupational therapy assistant, without benefit of a plan written by a certified occupational therapist nor supervised by one as is required by State law. It is therefore the finding of the undersigned that the occupational therapy provided during this time frame did not satisfy the requirements of FAPE. This finding is supported by the testimony of Debra Williams and Sandy Toombs. The parents had no choice but to provide the occupational therapy by a certified occupational therapist at their own expense.

It is also undisputed that G.R. should receive speech therapy during both the 1998-1999 and 1999-2000 school years. During the 1998-1999 school year speech therapy was to be provided by Pat Tate, a certified speech therapist employed by the school. As clearly reflected at Exhibit 20, received as evidence at the due process hearing, and undisputed by the school, Ms. Tate had exceptionally poor attendance and was rarely available to provide

services to G.R. Again, the parents had no recourse but to provide these services at their own expense.

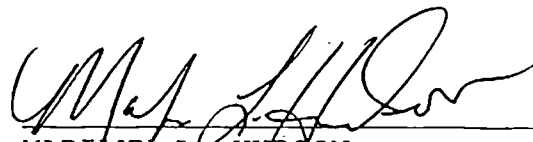
With respect to all other services requested by the parents, the undersigned is not persuaded that the supplemental services requested are required to satisfy the requirements of FAPE. At the time of the hearing, G.R. was receiving occupational therapy supervised by a certified occupational therapist employed by the school and in compliance with state law and also receiving speech therapy on a regular basis from a certified speech therapist employed by the school.

With respect to the parents' request for reimbursement of \$205.00 for testing administered by Dr. Barbara Olson, the undersigned finds that it is undisputed that the parents did not comply with the requirements for reimbursement, in that they did not request an independent educational evaluation at public expense, but, to the contrary, advised the school of their intention to pay for the exam themselves.

It is the opinion of the undersigned that the parents have substantially prevailed. The undersigned does not have jurisdiction to determine an award of attorney fees, to include costs of litigation.

In the event the parties cannot agree upon the exact amount of compensation to be paid to the parents as directed herein, the parents are directed to file a motion with the undersigned to fix the exact amount, which amount will be computed from the exhibits received at the due process hearing.

Enter this the 10 day of May, 2000.

  
MARILYN L. HUDSON  
ADMINISTRATIVE LAW JUDGE

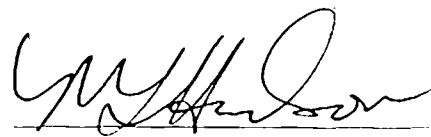
CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Order has been served upon the following as set out below on this 10 day of May, 2000:

Allston Vander Horst - via facsimile and regular mail  
Attorney for [REDACTED]  
P.O. Box 11, 105 West End Ave.  
Centerville, TN 37033

John Kitch, Esquire - via facsimile and regular mail  
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Nashville, TN 37212

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Tennessee State Department of Education  
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MARILYN L. HUDSON